

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ANTONIO FRAUSTO,)
)
Defendant.)
)

8:09CR3

ORDER

This matter is before the court on defendant's motions for leave to appeal in forma pauperis and request for a transcript.¹ Filing Nos. 187 & 189. Defendant has been convicted of conspiracy to distribute methamphetamine after a plea of guilty. Filing No. 184. He was previously represented by retained counsel in this proceeding. He has now filed a financial affidavit showing that he is incarcerated and unable to pay the costs of appeal. Filing No. 199. Defendant's financial affidavit shows that he is indigent, notwithstanding his ability to obtain retained counsel. Furthermore, defendant seeks to appeal his criminal conviction and sentence and is entitled to seek that redress. Accordingly, the court finds the defendant's motion should be granted.

IT IS ORDERED that:

1. Defendant's motions for leave to appeal in forma pauperis (Filing Nos. 187 & 189) are granted.

¹Also pending is a motion for an extension if time in which to file an opening brief and petition for post-conviction relief, Filing No. 205. The defendant's appeal has not yet been forwarded to the Eighth Circuit Court of Appeals, pending the disposition of this motion. The briefing schedule will be set by the Court of Appeals. Accordingly, the defendant's motion for an extension of time will be denied as premature.

2. Defendant's motion for an extension of time (Filing No. 205) is denied as premature.

DATED this 15th day of September, 2010.

BY THE COURT:

s/Joseph F. Bataillon
UNITED STATES DISTRICT JUDGE